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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 19-CR-00018-001 WHA
)	
Plaintiff,)	[PROPOSED] DETENTION ORDER
)	
v.)	
)	
ZEPHYR CARTER,)	
)	
Defendant.)	

In late July 2019, the defendant Zephyr Carter was sentenced to a 24-month imprisonment term and one year of supervised release following his conviction on a single count of aggravated identity theft in violation of 18 U.S.C. § 1028A. The defendant served his sentence and was released.

On August 7, 2020, a warrant was issued for the defendant's arrest based on multiple alleged violations of his supervised release conditions. Among other violations, the defendant was accused of violating standard condition one, which states that he shall report to the probation office within 72 hours of release.

The defendant was arrested on the outstanding federal warrant in early December 2021, and, on December 14, 2021, a detention hearing was held before the Honorable Joseph C. Spero. The parties presented argument. The defense argued that the defendant should not be detained, in part because of

1 the upcoming birth of the defendant's son. (The defendant himself said his child was due in late March
 2 2022.) The government, on the other hand, argued that the defendant could not establish by clear and
 3 convincing evidence that he would not flee based on the defendant's failure to report to the probation
 4 office over the course of the last approximately 18 months (between June 2020, when the defendant
 5 completed his 24-month imprisonment term, and early December 2021, when he was arrested on the
 6 federal arrest warrant).¹

7 Upon consideration of the proffers of the government and the defense and the presentation made
 8 by U.S. Probation Officer Brandon Howard, and for the reasons stated on the record, the Court
 9 determines that the defendant has not established by clear and convincing evidence that he will not flee.
 10 *See* Fed. R. Crim. Proc. 32.1. This determination is based on the defendant's failure to report to the
 11 probation office over the course of the last 18 months (between the defendant's release in June 2020 and
 12 his arrest in early 2021). The defendant's statement regarding the upcoming birth of his son—that this is
 13 enough of a motive to prevent any flight—is unconvincing. The defendant knew about the upcoming
 14 birth of his son and yet still failed to report to the probation office. He also knew about the birth of his
 15 son when he allegedly committed additional identity theft offenses in early December 2021.

16 The present order supplements the Court's findings and order at the detention hearing and serves
 17 as written findings of fact and a statement of reasons. These findings are made without prejudice to
 18 defendant's right to seek review of defendant's detention or to file a motion for reconsideration if
 19 circumstances warrant it.

20 Pursuant to Title 18, United States Code, Section 3142(i), IT IS ORDERED THAT:

21 1. Defendant be, and hereby is, committed to the custody of the Attorney General for
 22 confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving
 23 sentences or being held in custody pending appeal;

24 2. Defendant be afforded reasonable opportunity for private consultation with counsel; and

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 28 ¹ According to the petition, following the defendant's release from custody on June 22, 2020, the defendant had
 telephonic contact with the probation office just twice, on June 24 and 25, 2020.

1 3. On order of a court of the United States or on request of an attorney for the government,
2 the person in charge of the corrections facility in which the defendant is confined shall deliver defendant
3 to an authorized United States Marshal for the purpose of any appearance in connection with a court
4 proceeding.

5 IT IS SO ORDERED.

6
7 DATED: December 14, 2021


THE HON. JOSEPH C. SPERO
United States Chief Magistrate Judge